

PJS:MAS:cer

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ANTIONE BRUCE,	:	NO. 3:10-CV-2256
Plaintiff	:	
	:	(Kosik, J.)
v.	:	
	:	
B. CHAMBERS,	:	
DELBERT SAUERS,	:	
B. BLEDSOE, and	:	
KATHLEEN KENNEY,	:	
Defendants	:	Filed Electronically

**BRIEF IN SUPPORT OF
DEFENDANTS' MOTION FOR LEAVE TO FILE
A BRIEF IN EXCESS OF FIFTEEN PAGES**

Defendants respectfully submit this Brief in Support of their Motion to Exceed the fifteen page, 5,000 word limit as provided in M.D. Pa. Local Rule 7.8 in filing the brief in support of their Motion to Dismiss and for Summary Judgment.

I. Procedural History

Plaintiff Antoine Bruce filed his Complaint against Defendants Chambers, Sauers, Bledsoe, and Kenney on November 1, 2010. Currently pending before this Court is Defendants' Motion to Dismiss and Motion for Summary Judgment. This brief supports Defendants' motion to exceed the local rules regarding page limitations for briefs.

II. Factual Background

The Complaint is a Bivens action against four Bureau of Prisons' officials concerning the Plaintiff's designation to the Special Management Unit (SMU). In his Complaint, Plaintiff sets forth a due process claim in connection with his SMU referral hearing and an Eighth Amendment claim in which he alleges that he is receiving inadequate psychology care while in the SMU.

III. Question Presented

Whether this Court should allow Defendants to file a brief that is forty pages in length?

Suggested Answer: Affirmative.

IV. Argument

To the extent that Bruce has sued the defendants in their official capacity, this Court lacks subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). Additionally, to the extent that Bruce's due process claim challenges the validity of prison disciplinary actions which extended the duration of his sentence through the loss of good conduct time, his claims are barred by the favorable termination rule. Lastly, the allegations contained in Bruce's Complaint, in whole or in part, fail to state a claim upon which relief can be granted. Specifically, SMU designation does not implicate a due process liberty interest and the record does not establish that the non-medical Defendants were deliberately indifferent to a serious medical need. Alternatively, the Defendants are entitled to qualified immunity.

In order to demonstrate all of Defendants' defenses to Bruce's claims and the underlying facts relevant to each of his claims, Defendants will need to exceed the fifteen page, 5,000 word limit of the local rules of this Court. Defendants submit that their Brief will be no longer than 40 pages in length, and likely less. Plaintiff will not be prejudiced in granting this Motion; indeed, granting this Motion should assist Plaintiff in understanding all of Defendants' defenses.

V. Conclusion

For the reasons stated above, Defendants request that this Court grant their request for leave to file the Brief in Support of their Motion to Dismiss and for Summary Judgment in excess of the fifteen page, 5,000 word limit.

Respectfully submitted,

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Date: March 10, 2011

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on March 10, 2011 she served a copy of the attached

**DEFENDANTS' BRIEF IN SUPPORT OF MOTION
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by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Scranton, Pennsylvania.

Addressee:

Antoine Bruce
Reg. No. 35363-007
FCI Talladega
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Talladega, AL 35160

s/ Cynthia E. Roman
CYNTHIA E. ROMAN
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